

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Newport News Division

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 4:19cr40
)	
JOSEPH W. POWELL,)	
)	
Defendant.)	

MOTION TO CONTINUE SENTENCING

COMES NOW the United States of America, by undersigned counsel, and respectfully moves this Court to continue the sentencing date, currently scheduled for January 15, 2020, to a period convenient to the parties and the Court. In support thereof, the parties state as follows:

1. On or about April 9, 2019, the defendant, was charged in a twelve-count indictment with a series of false statement charges (18 U.S.C. § 1001). The indictment followed a period of pretrial investigation and discussion between the parties. (ECF 1). The charges relate to the certification of welds done on vessels being constructed for the United States Navy and counsel for both parties have become familiar with the facts and issues affecting sentencing.

2. On October 1, 2019, the defendant pled guilty to Count 10 of the indictment. (ECF 11). Sentencing was set for January 15, 2020.

3. On October 16, 2019, counsel for the United States and the defendant began a lengthy racketeering trial in *United States v. Hunt*, 4:17cr52, which concluded on December 10, 2019. Due to the length of that trial, another of the undersigned's scheduled trials that was set for December 3, 2019 (*United States v. Ziglar*, 4:19cr30), was reassigned to other Assistant United States Attorneys (AUSA).

4. On or about November 26, 2019, following a hearing in the *Ziglar* case, the district judge in that case continued that trial to January 15, 2020. Due to the unavailability of the replacement AUSAs to continue with the *Ziglar* case, the trial was reassigned back to the undersigned AUSA.

5. The undersigned AUSA has discussed this conflict with counsel for the defendant, who has no objection to the requested extension. Given the history of the matter and the undersigned's familiarity with the facts and proceedings, the United States respectfully requests that the Court continue this matter to a date convenient to the Court and the parties.

Discussion

Whether to grant a motion to continue is within the broad discretion of the district court, and will only be found to be an abuse of discretion when the court exhibits "an unreasoning and arbitrary insistence upon expeditiousness in the face of a justifiable request for a delay." *Morris v. Slappy*, 461 U.S. 1, 11-12 (1983); *see also United States v. Cronin*, 466 U.S. 648, 662-66 (1984); *United States v. Hoyte*, 51 F.3d 1239, 1245 (4th Cir. 1995).

The United States submits that a brief continuance of the sentencing date in this matter will result in no prejudice to either the government or the defendant (who remains on bond), but will permit the undersigned, who is familiar with the facts and sentencing issues to handle the sentencing hearing.

WHEREFORE, the United States respectfully requests that this Court enter the proposed Order continuing the trial date from January 15, 2020, to a date convenient to the Court, the defendant and the United States.

Respectfully submitted,

G. ZACHARY TERWILLIGER
UNITED STATES ATTORNEY

_____/s/_____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of December, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send an electronic notification of such filing to the following:

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